

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CONNECTICUT BANK OF COMMERCE,

Plaintiff,

Civil Action No. 05-762 SLR

- against -

THE REPUBLIC OF CONGO,

Defendant,

CMS NOMEKO CONGO INC.,

Garnishee.

X

**PLAINTIFF'S EMERGENCY MOTION FOR AN ORDER
TO SHOW CAUSE FOR AN ORDER OF CONTEMPT, ORDER
OF SEQUESTRATION AND PRELIMINARY INJUNCTION**

TO:

VIA HAND DELIVERY
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VIA FIRST CLASS MAIL
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PLEASE TAKE NOTICE that Pursuant to Federal Rules of Civil Procedure 69 and 70, 10 Del. C. § 366 and Delaware Chancery Court Rule 4(db) as applied through Rule 69, Af-Cap, Inc. ("Af-Cap"), successor-in-interest to Plaintiff-Judgment Creditor Connecticut Bank of Commerce, by and through its undersigned counsel, hereby moves for Garnishee CMS Nomeko Congo, Inc. (now CMS Nomeko Congo LLC ("CMS")) to show cause why it should not put money aside (royalty payments) pending a hearing on the motion for an the entry of an order, in

the form attached hereto: (i) holding Garnishee CMS Nomeco Congo, Inc. (now CMS Nomeco Congo LLC ("CMS")) in contempt of the Writ of Garnishment issued by the Superior Court of the State of Delaware on September 30, 2005 and ordering it to pay Af-Cap a sanction for such contempt; (ii) issuing an order of sequestration pursuant to 10 Del. C. § 366 and Delaware Chancery Court Rule 4(db), thereby seizing all property of the defendant Congo in the possession of CMS, including Congo's right to receive royalties under the Convention; and (iii) enjoining CMS from taking any further action to remove from the jurisdiction of this Court any interest in the Convention dated May 25, 1979, between CMS as venture partner with the Republic of Congo ("Congo") including its obligation to make royalty payments to defendant Congo pending the disposition of this action. The grounds for this Motion are set forth in Plaintiff's Opening Brief in Support of Its Motion and the supporting Affidavit of James W. Perkins filed contemporaneously herewith.

DATED: January 10, 2007
Wilmington, Delaware

Respectfully submitted,

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